

S.B. CIVIL WRIT PETITION NO. 5883/1993.
(DAULAT SINGH RATHORE VS. UNION OF INDIA & ANR.)

DATE OF ORDER : 04.07.2007.

HON'BLE MR. GOVIND MATHUR, J.

Mr. M. Mridul, Senior Advocate assisted by
Mr. P.S Chundawat for the petitioner.
Mr. Vineet Mathur for the respondents.

By this petition for writ, a direction is sought by the petitioner for respondents to accord him promotion as Inspector (Subedar) from the year 1989/ from the date the persons whose names were placed down below him in the consolidated list "E" in the order dated 08.09.1990.

In brief, case of the petitioner is that he being a Sub Inspector in Border Security Force was having an avenue for promotion to the post of Inspector (Subedar) as per BSF (Subordinate Officers and Under Officers) Promotion and Seniority Rules, 1975. A consolidated list "E" was prepared wherein his name was shown as a person eligible to be promoted as Inspector, but his candidature was not considered as his Annual Confidential Record was awaited. According to the petitioner, the respondents did not consider his candidature subsequent also and as such denied him promotion for no just and valid reason.

In reply to the writ petition, it is contended by the respondents that the petitioner was not possessing requisite suitability to be promoted as Inspector and, therefore, promotion was not accorded to him. It is asserted that the inclusion of the petitioner in list "E" was tentative as the eligibility was required to be examined by the competent committee.

Heard counsel for the parties.

Rule 18 of the Rules of 1975 prescribes procedure for selecting Sub-Inspectors (Platoon Commanders) and promotion from Sub-Inspector (Platoon Commander) to Subedar (Inspector/ Company 2 I/C) once in a year by examining their suitability. For examining suitability, the respondents conducted a test, but the petitioner failed to qualify the same. On being failed to qualify the test, the petitioner was not found suitable to be promoted. It was necessary for the petitioner for getting promotion to qualify the suitability test. As such, I do not find any error in the action of the respondents for not promoting the petitioner as Inspector / Subedar.

The petitioner being not having requisite suitability to be promoted as Inspector (Subedar), was rightly denied promotion.

The writ petition is, therefore, having no merit and same is dismissed.

(GOVIND MATHUR)J.

Anil/